

CHAPTER 183
DISCIPLINE FOR OPTOMETRISTS

[Prior to 6/13/01, see 645—Ch 180]

[Prior to 8/7/02, see 645—Ch 182]

645—183.1(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in the rules, including civil penalties in an amount not to exceed \$1,000 or maximum allowed, when the board determines that the licensee is guilty of any of the following acts or offenses:

183.1(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice optometry in this state, and includes false representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board or the Iowa department of public health any false or forged diploma, certificate or affidavit or identification or qualification in making an application for a license in this state.

183.1(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the optometrist's practice;

b. A substantial deviation by the optometrist from the standards of learning or skill ordinarily possessed and applied by other optometrists in the state of Iowa acting in the same or similar circumstances;

c. Failure by an optometrist to exercise in a substantial respect that degree of care which is ordinarily exercised by the average optometrist in the state of Iowa acting in the same or similar circumstances;

d. A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of optometry in the state of Iowa.

183.1(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

a. Practice harmful or detrimental to the public includes, but is not limited to, the failure of an optometrist to possess and exercise that degree of skill, learning and care expected of a reasonable, prudent optometrist acting in the same or similar circumstances in this state.

b. Practice harmful or detrimental to the public includes, but is not limited to, the use of a rubber stamp to affix a signature to a prescription. A person who is unable, due to a physical handicap, to make a written signature or mark, however, may substitute, in lieu of a signature, a rubber stamp which is adopted by the handicapped person for all purposes requiring a signature and which is affixed by the handicapped person or affixed by another person upon the request of the handicapped person and in that person's presence.

c. Practice harmful or detrimental to the public includes, but is not limited to, the practice of maintaining any presigned prescription which is intended to be completed and issued at a later time.

183.1(4) Habitual intoxication or addiction to the use of drugs. Habitual intoxication or addiction to the use of drugs means the inability of an optometrist to practice optometry with reasonable skill and safety by reason of the excessive use of alcohol, drugs, narcotics, chemicals or other type of material on a continuing basis, or the excessive use of alcohol, drugs, narcotics, chemicals or other type of material which may impair an optometrist's ability to practice the profession with reasonable skill and safety.

183.1(5) Conviction of a felony related to the profession or occupation of the licensee, or the conviction of any felony that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence. Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within the profession includes, but is not limited to, the conviction of an optometrist who has committed a public offense in the practice of the profession which is defined or classified as a felony under state or federal law, or who has violated a statute or law designated as a felony in this state, another state, or the United States, which statute or law relates to the practice of optometry, or who has been convicted of a felonious act, which is so contrary to honesty, justice or good morals, and so reprehensible as to violate the public confidence and trust imposed upon an optometrist in this state.

183.1(6) Use of untruthful or improbable statements in advertisements. This includes, but is not limited to, an action by an optometrist, or on behalf of an optometrist, in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation and includes statements which may consist of, but are not limited to:

- a. Inflated or unjustified expectations of favorable results.
- b. Self-laudatory claims that imply that the optometrist is a skilled optometrist engaged in a field or specialty of practice for which the optometrist is not qualified.
- c. Extravagant claims or proclaiming extraordinary skills not recognized by the optometric profession.

183.1(7) Willful or repeated violations of the provisions of these rules and Iowa Code chapter 147.

183.1(8) Violating a regulation or law of this state, another state, or the United States, which relates to the practice of optometry.

183.1(9) Failure to report a license revocation, suspension or other disciplinary action taken by a licensing authority of another state, district, territory or country within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

183.1(10) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements to restrict the practice of optometry entered into in another state, district, territory or country.

183.1(11) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice optometry.

183.1(12) Failure to identify oneself as an optometrist to the public.

183.1(13) Violating a lawful order of the board, previously entered by the board in a disciplinary hearing or pursuant to informal settlement.

183.1(14) Being adjudged mentally incompetent by a court of competent jurisdiction.

183.1(15) Making suggestive, lewd, lascivious or improper remarks or advances to a patient.

183.1(16) Indiscriminately or promiscuously prescribing, administering or dispensing any drug for other than lawful purpose. Indiscriminately or promiscuously prescribing, administering or dispensing includes, but is not limited to, prescribing, administering or dispensing any drug for purposes which are not eye- or vision-related.

183.1(17) Knowingly submitting a false report of continuing education or failure to submit the biennial report of continuing education.

183.1(18) Failure to comply with a subpoena issued by the board.

183.1(19) Failure to file the reports required by rule 645—9.3(272C) concerning acts or omissions committed by another licensee.

183.1(20) Obtaining any fee by fraud or misrepresentation.

183.1(21) Failing to exercise due care in the delegation of optometric services to or supervision of assistants, employees or other individuals, whether or not injury results.

This rule is intended to implement Iowa Code chapters 17A, 147, 154 and 272C.

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